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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,898	07/07/2003	Richard Merrill	45446/043679	4327

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EXAMINER

NGO, LIEN M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/612,898	Applicant(s) MERRILL, RICHARD	
	Examiner LIEN TM NGO	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species I, claims 1-6 and 9 in the reply filed on 8/19/04 is acknowledged. Claims 7 and 8 have been withdrawn from consideration as being non-elected claims.

Claim Objections

2. Claim 1 is objected to because of the following informalities: "In" in the beginning of the claims, before "a hollow", should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Unsworth (Pub.US 2004/238477). Unsworth discloses, in figs.1 and 3-5, a container comprising a removable membranous sealing device having a sealing component 3 and a tab component 4 with a gripping end 4b, a sleeve 5 fitting snugly about the neck of the container, wherein the tab component is folded back upon the sealing component.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Unsworth in view of Han (5,372,268). Unsworth does not disclose the membranous seal comprising multiple layers.

Han teaches a membranous seal for a container comprising multiple layers.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the Unsworth membranous seal comprising multiple layers, as taught by Han, in order to provide a suitable strength for the seal.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Unsworth. Although Unsworth does not disclose the membranous seal comprising two crimps as claimed, it is well known in the art that crimps are provide in a membranous material to facilitate the folding of the material. Therefore, it would be obvious to one having an ordinary skill in the art at the time the invention was made to provide the Unsworth membranous seal with two crimps as claimed in order to facilitate of the folding back of the tab component upon the sealing component.

8. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unsworth in view of Ramsey (Des. 362,185) and Arthur (Des. 200,884). Unsworth

further disclose, in page 3, paragraph [0037], the seal pad may include peel-off top where only a portion of the top is removed.

Ramsey teaches sealing a sealing component comprising a first break line and a second breaking line and notches located adjacent to the first ends of the first and second breaking lines. Arthur teaches a sealing component having first and second break lines are diverging.

Therefore it would have been obvious to one having an ordinary skill in the art at the time the inventions was made to the Unsworth sealing component having breaking lines as claimed, as taught by Ramsey and Arthur, in order to facilitate the tearing of the sealing component for providing a dispensing opening for the container.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Unsworth in view of Baltzley (1,744,026). Unsworth does not disclose the sealing device comprising multiple membranous seals joined together in a continuous length.

Baltzley teaches, in fig. 3, a sealing device comprising multiple membranous seals joined together in a continuous length, as claimed.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sealing device of Unsworth with multiple membranous seals joined together in a continuous length, as taught by Baltzley, in order to facilitate of the capping of the container production.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-

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4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LEE YOUNG can be reached on 571-272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LIEN TM NGO
Primary Examiner
Art Unit 3727

January 6, 2004

LIEN M. NGO
PRIMARY EXAMINER

LIEN M. NGO
PRIMARY EXAMINER